MADRAS ACT No. II OF 1890.[1]

[THE MADRAS CANALS AND PUBLIC FERRIES ACT, 1890.]

[1*st April* 1890 ; 9*th May* 1890.]

An Act to make better provision for the establishment of Canals and Public Ferries in the Presidency of Madras and for the management thereof.

WHEREAS it is expedient to make better provision for the establishment of canals and public ferries in the Presidency of Madras and for the management thereof ; It is enacted as follows :— Preamble.

1. This Act may be called the [2][Madras] Canals and Public Ferries Act, 1890. Short title and local extent.

It extends to the whole of the Presidency of Madras.

2. [*Repeal.*] *Rep. by the Repealing and Amending Act,* 1901 (*Central Act XI of* 1901).

3. In this Act "vessel" includes any ship, barge, boat, raft, timber, bamboos or floating materials propelled in any manner : Definitons.

[3] "channel" includes any waterway, whether natural or artificial :

"line of navigation" means any navigable channel, or series of connected navigable channels :

"canal" means a line of navigation declared to be subject to the provisions of this Act :

"ferry" means a place at which goods, animals or passengers are conveyed across a channel by means of vessels :

"public ferry" means a ferry declared to be subject to the provisions of [3] [sections 9 to 18 of this Act].

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[1] For Statement of Objects and Reasons, *see Fort St. George Gazette* Supplement, dated 3rd December 1889, p. 3 ; for Report of the Select Committee, *ibid*, dated 25th February 1890, p. 1 ; for Proceedings in Council, *see ibid*, dated 28th January 1890, p. 2, and *ibid*, dated 1st April 1890, p. 3.

[2] This word was inserted by section 3 (1) of, and the Second Schedule to, the Madras Repealing and Amending Act, 1951 (Madras Act XIV of 1951).

[3] These words and figures were substituted for the words "this Act" by section 2 of the Canals and Public Ferries (Amendment) Act, 1941 (Madras Act XX of 1941). This was permanently re-enacted by section 2 of, and the First Schedule to, the Madras Re-enacting and Repealing (No. I) Act, 948 (Madras Act VII of 1948).

Power to apply Act to any line of navigation.

4. The [1] [State Government] may, by notification in the [2] [Official Gazette], declare any line of navigation to be subject to the provisions of this Act from a date to be named in such notification, and may in like manner cancel or modify any such notification.

Vessels to be registered or licensed as directed by Government.

[3] **5.** All vessels using a canal shall be either licensed or registered as the [1] [State Government] may direct:

[4] [Provided that the [1] [State Government] may exempt from the operation of this section all or any vessels or classes of vessels using a canal or portion of a canal.]

Power to fix fees and rates of toll and to establish toll-stations.

6. The [1] [State Government] may from time to time—

(*a*) fix rates of fees payable for the licensing or registration of vessels;

(*b*) establish stations at which tolls shall be levied on vessels passing along a canal or on passengers, vehicles, animals or goods landed therefrom, and fix the rates of such tolls;

(*c*) fix fees for the use of public landing places, wharves, piers, jetties, docks, basins, lie-byes, sidings, sheds or warehouses provided for the accommodation of vessels using a canal or of goods or passengers carried or to be carried thereon and for demurrhage on vessels or goods detained therein.

A notification of such tolls or fees under clauses (*b*) and (*c*) of this section shall be exhibited to public view in English and in the vernacular language of the district at the places where such tolls or fees are leviable.

Power of person duly authorized to impose punishment for breach of condition of licence and to deal with any obstruction or with navigation in contravention of Act.

7. Any person duly empowered by [5] [the State Government] in this behalf may—

(i) suspend or cancel the licence or registration of any vessel in case of breach of any condition thereof, or in lieu of such suspension or cancellation or of prosecution may recover from the person in charge of the vessel a penalty not exceeding five rupees for each such breach;

(ii) remove from the canal any vessel which may be sunk or abandoned therein, and may recover any expense incurred in so doing by the sale of the vessel; a vessel left for more than three days without a competent person in charge shall be held to be abandoned;

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[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[2] These words were substituted for the words "*Fort St. George Gazette*" by the Adaptation Order of 1937.

[3] This section was substituted by Madras Act II of 1895, section 1.

[4] This proviso was added to s. 5 by s. 2 of Madras Act V of 1914.

[5] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

(iii) in case of emergency remove any other obstruction, or contrivance for fishing, or other thing which is an impediment to navigation, or in other cases serve notice upon the owner, if any, to remove any such thing within a reasonable time to be stated in the notice, failing which he may remove it himself. Expenses incurred under this clause shall be recoverable from the owner: Provided always that, in cases of interference with private rights reasonable compensation shall be payable;

(iv) prohibit the construction of any contrivance for fishing or for any other purpose in the canal or any erection therein or on a tow-path or other land appurtenant thereto;

(v) stop any vessel navigating the canal in contravention of any of the provisions of this Act or of any rule made or any condition of licence or registration prescribed thereunder, and may detain it until the same is complied with or until penalty has been paid or recovered under clause (i) of this section or until the offence, if any, has been inquired into and disposed of.

Powers under this section may be conferred either by name or in virtue of an office.

Power to declare that ferries not being public ferries shall be subject to rules for securing the safety of passengers.

[1] [7-A. (1) The [2] [State] Government may, by notification in the *Fort St. George Gazette*, declare that any ferry, not being a public ferry, shall be subject to any rules made by them under this section for the purpose of securing the safety of passengers conveyed across the ferry.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(i) the types of vessels that may be used for conveying passengers across the ferry; and

(ii) the number of passengers that may be so conveyed on vessels of each such type.]

Power to apply Act to any ferry and define limits of ferry.

8. The [3] [State Government] may, by notification in the [4] [Official Gazette], declare any ferry to be subject to the

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[1] This section was inserted by section 3 of the Canals and Public Ferries (Amendment) Act, 1941 (Madras Act XX of 1941). This was permanently re-enacted by section 2 of, and the First Schedule to, the Madras Re-enacting and Repealing (No. I) Act, 1948 (Madras Act VII of 1948).

[2] This word was substituted for the word "Provincial" by theo Adapation Order of 1950.

[3] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[4] These words were substituted for the words "*Fort St. George Gazette*" by the Adaptation Order of 1937.

provisions of [1] [sections 9 to 18 of this Act] from a date to be named in such notification, and may define the limits of such ferry. The [2] [State Government] may, in like manner, cancel or modify any such notification.

Upon such application existing rights of ferry to cease.

9. From such date all previously existing rights of ferry within the limits defined in the notification shall cease and determine, and it shall be unlawful for any person not duly authorized to convey goods, animals or passengers by means of vessels across a channel within such limits while such notification is in force: Provided that, when rights of ferry are extinguished under this section, compensation shall be payable for such extinction and shall be assessed as near as may be under any law for the time being in force relating to the acquisition of land for public purposes.

Proviso.

Power to provide for management of ferries and fix fees and rates of tolls.

[3] [**10.** (1) The [4] [State] Government may—

(*a*) provide for the management of any public ferry, or

(*b*) authorize any person to convey passengers, animals, vehicles or goods across a channel by means of vessels at any public ferry, or

(*c*) assign the management of any public ferry to a [5] local board or municipal council.

(2) All vessels used by a person authorized under clause (*b*) of sub-section (1) shall be licensed, and the [4] [State] Government may fix the fees payable for such licence.

(3) In the cases referred to in clauses (*a*) and (*b*) of sub-section (1), the [4] [State] Government may levy tolls at such rates as they may fix upon passengers, animals, vehicles and goods conveyed across the ferry.

(4) Where under clause (*c*) of sub-section (1), the management of a public ferry is assigned to a [5] local board or municipal council, the [5]local board or municipal council may levy tolls upon passengers, animals, vehicles and goods conveyed across the ferry at such rates as it may, subject to the control of the

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[1] These words and figures were substituted for the words "this Act" by section 4 of the Canals and Public Ferries (Amendment) Act, 1941 (Madras Act XX of 1941). This was permanently re-enacted by section 2 of, and the First Schedule to, the Madras Re-enacting and Repealing (No. I) Act, 1948 (Madras Act VII of 1948).

[2] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[3] This section was substituted for the original section 10 by section 2 of the Canals and Public Ferries (Amendment) Act, 1939 (Madras Act VII of 1939).

[4] This word was substituted for the word "Provincial" by the Adaptation Order of 1950.

[5] Now district board.

[1] [State] Government, fix. All moneys received by the [2]local board or municipal council from the tolls levied by it under this sub-section shall form part of its funds.

(5) A notice in English and in the language of the district specifying the tolls leviable at a ferry under sub-section (3) or sub-section (4), as the case may be, shall be exhibited to public view on each side of the ferry.]

Power to assign management of canal to district board or municipal council.

11. The management of any canal [3][. . . . .] may, by order of the [4] [State Government], be assigned to a [2]local board or municipal council [5][. . . . . .] which shall exercise all the powers stated in section 7, and may, subject to the control of [6] [the State Government], confer such powers on its servants. All persons duly empowered under section 7 shall be deemed to be public servants within the meaning of the Indian Penal Code.

Central Act XLV of 1860.

Power to appoint persons to collect tolls or fees and to lease out collection thereof.

12. The [4] [State Government] or the managing authority shall appoint persons to collect tolls or fees payable under this Act. The collection of such tolls or of fees other than licence-fees may, under such conditions as the [4] [State Government] may from time to time prescribe, be leased out and in such case the lessee and his agents and servants shall be deemed to be so appointed.

Procedure in case of non-payment of toll, etc., on demand.

13. In case any tolls, fees other than licence-fees or penalties payable under this Act are not paid when demanded by a person duly appointed or empowered to collect or impose the same, such person may seize any vessel, goods, vehicles or animals in respect of which such toll, fee or penalty is payable or anything in the possession of a passenger or person who is liable to such toll, fee or penalty, and any person empowered by [6] [the State Government] or the managing authority in this behalf may sell the same by auction after fifteen days' public notice of the sale if such toll, fee or penalty is still unpaid. After deduction of such toll, fee or penalty and of the expenses of sale, the surplus proceeds, if any, shall be paid to the person from whose possession the thing sold was taken.

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[1] This word was substituted for the word "Provincial" by the Adaptation Order of 1950.

[2] Now district board.

[3] The words "or public ferry" were omitted by section 3 of the Canals and Public Ferries (Amendment) Act, 1939 (Madras Act VII of 1939).

[4] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[5] The words "and thereupon in every such case the revenue accruing therefrom shall be credited to the funds of such managing authority" were omitted by the Adaptation Order of 1937.

[6] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

What payments may be recovered as arrears of revenue.

14. All canal and ferry rents and expenses incurred under section 7 may be recovered by the Collector of the district in like manner as if they were arrears of land-revenue :

[1] [Provided that any ferry rent due to a [2] local board or municipal council shall be recovered as if the same were a tax due to the [2] local board or municipal council.]

Form, etc., of licences and registrations.

15. All licences granted and registrations effected under this Act shall be in such form, shall be valid for a voyage or for such time, and shall contain, or be subject to, such conditions as the [3] [State Government] may from time to time direct.

Power to make rules.

16. The [3][State Government] may make rules in respect of any canal or public ferry for all or any of the following purposes :—

(i) declaring the powers to be exercised by any person employed under this Act ;

(ii) providing for the grant of licences, for the inspection of licensed vessels, and for their maintenance in good condition ;

(iii) regulating the dimensions of free board of vessels using any canal or public ferry, the equipment of the same, and the number of passengers and the nature and quantity of cargo to be carried therein ;

(iv) regulating the speed at which vessels shall be moved, the passing of vessels, the lights to be exhibited by vessels moving or at anchor, the working of locks, the mooring of vessels, and the use of landing places, wharves, piers, jetties, docks, basins, lie-byes, sidings, sheds or warehouses ;

(v) the disposal of vessels or other things confiscated or seized under this Act ;

(vi) for the convenience of passengers ; and generally for the purpose of this Act.

Penalty for breach of rule.

17. Any person who breaks any rule made under this Act shall be punishable on conviction by a Criminal Court with fine not exceeding fifty rupees in case of a single offence, and, in case of a continuing offence, not exceeding ten rupees for every day during which such offence continues. If the offence is such as to endanger human life, the punishment may extend to imprisonment of either description for one year or to fine of five hundred rupees, or both.

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[1] This proviso was added by section 4 of the Canals and Public Ferries (Amendment) Act, 1939 (Madras Act VII of 1939).

[2] Now district board.

[3] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

Penalty for navigating a canal or establishing or working a ferry in contravention of section 5, 7 or 9.

18. Any person navigating a canal or establishing or working a ferry in contravention of section 5, [1][7-A] or 9 of this Act shall be liable on conviction before a Criminal Court to fine not exceeding five hundred rupees.

Penalty for evasion of toll or fee and for unauthorized levy of toll, etc.

19. Any person who refuses or evades payment of any toll or fee payable under this Act, or without due authority levies any toll or fee under colour of this Act, or, being empowered to collect tolls or fees under this Act, collects or receives any sum in excess of the lawfull due, shall on conviction by a Criminal Court be punishable with imprisonment of either description not exceeding one month, or with fine not exceeding one hundred rupees, or with both.

Power of Court to order confiscation.

20. On conviction had of any offence under this Act, the Court may order that any vessel or other thing used in the commission of such offence shall be confiscated.

[2][**21.** The [3][State Government] may delegate all or any of [4][their] powers under sections 5, 10, 11, 12, 13 and 15 to any officer not below the rank of District Collector or Superintending Engineer.]

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[1] The figure and letter "7-A" were inserted by section 5 of the Canals and Public Ferries (Amendment) Act, 1941 (Madras Act XX of 1941). This was permanently re-enacted by section 2 of, and the First Schedule to, the Madras Re-enacting and Repealing (No. I) Act, 1948 (Madras Act VII of 1948).

[2] Section 21 was added by Mad. Act VIII of 1914.

[3] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[4] This word was substituted for the word "his" by the Adaptation Order of 1937.